

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

MICHAEL DOTSON,

Plaintiff,

v.

Case No. 16-C-1438

NANCY A. BERRYHILL,
Acting Commissioner of Social Security,

Defendant.

ORDER GRANTING MOTION FOR ATTORNEY'S FEES

This case is before the court for review of Plaintiff's motion for attorney's fees under 42 U.S.C. § 406(b). Pursuant to the parties' stipulation, this court reversed the Commissioner's denial of disability benefits, remanded the matter for further administrative proceedings, and awarded Plaintiff attorney's fees in the amount of \$6,942.74. On remand, the ALJ issued a favorable decision and Plaintiff was awarded \$89,070.00 in past due benefits. ECF No. 25-1.

The Notice of Award indicated that the Social Security Administration withheld \$22,267.50 to pay for attorney's fees. *Id.* at 3. Although Plaintiff agreed to pay counsel 25% of all past due benefits, Plaintiff's administrative representative petitioned for and was awarded \$6,000.00 in administrative fees. Plaintiff's counsel now requests that he be awarded the remaining \$16,267.50 as a reasonable fee and that, upon payment of the § 406(b) fee, he will refund the EAJA fee award of \$6,942.74 to Plaintiff directly. Plaintiff's counsel indicates that the Commissioner has no objection to the motion.

A court may allow as part of its judgment “a reasonable fee . . . not in excess of 25 percent of the total of the past-due benefits to which the claimant is entitled by reason of such judgment.” 42 U.S.C. § 406(b)(1)(A). If the contingent-fee agreement is within § 406(b)’s 25 percent boundary, “the attorney for the successful claimant must show that the fee sought is reasonable for the services rendered.” *Gisbrecht v. Barnhart*, 535 U.S. 789, 807 (2002). Here, Plaintiff’s counsel’s request for slightly less than the full 25 percent contingent fee appears reasonable based upon the services rendered in this case. Counsel represented Plaintiff in the civil action, which has resulted in an award of past due benefits of \$89,070.00. Counsel also provided a detailed accounting of the work done on this case. ECF No. 25-3. In light of the evidence before the court, I am satisfied that counsel’s fee request is reasonable.

Accordingly, Plaintiff’s motion for attorney’s fees pursuant to 42 U.S.C. § 406(b) (ECF No. 25) is **GRANTED**. Plaintiff’s counsel is entitled to attorney fees in the amount of \$16,267.50. Upon payment of the fees to Plaintiff’s counsel, he is order to refund the EAJA fee of \$6,942.74 to Plaintiff directly.

SO ORDERED this 4th day of May, 2018.

s/ William C. Griesbach

William C. Griesbach, Chief Judge
United States District Court